

AMENDED IN ASSEMBLY MAY 30, 1997  
AMENDED IN ASSEMBLY APRIL 23, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1096**

**Introduced by Assembly Member Martinez**

February 27, 1997

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An act to amend ~~Section 309.5~~ *Sections 309.5, 583, and 584* of the Public Utilities Code, relating to the Public Utilities Commission.

LEGISLATIVE COUNSEL'S DIGEST

AB 1096, as amended, Martinez. Public Utilities Commission: Attorney General: consumer advocacy.

Under existing law, the Public Utilities Commission is responsible for the regulation of public utilities within the state.

Existing law contains a consumer advocacy division within the commission with a director appointed by, and serving at the pleasure of, the Governor, subject to Senate confirmation.

This bill would instead put within the office of the Attorney General a division *with a director appointed by, and serving at the pleasure of, the Attorney General*, to represent the interests of public utility customers and subscribers, and provide for a consumer advocate and staff for the division in order to carry out the responsibilities of representing the interests of consumers.

*Since existing law makes any public utility, as defined, and any person or corporation other than a public utility, that violates the Public Utilities Act guilty of a misdemeanor, and the provisions of the bill would be within the act, this bill would impose a state-mandated local program by creating a new crime.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 309.5 of the Public Utilities  
2 Code, as added by Section 3 of Chapter 856 of the Statutes  
3 of 1996, is amended to read:

4 309.5. (a) There is within the office of the Attorney  
5 General ~~a division~~ *an office*, known as the Office of the  
6 Consumer Advocate, *to hear and represent the concerns*  
7 *and complaints of customers and subscribers and to*  
8 *represent the interests of public utility customers and*  
9 *subscribers in commission proceedings. The goal of the*  
10 ~~division office~~ *shall be to obtain the lowest possible rate*  
11 *for service consistent with reliable and safe service levels.*

12 (b) The director of the ~~division office~~, known as *the*  
13 *Office of the Consumer Advocate*, shall be appointed by  
14 and serve at the pleasure of the ~~—Governor Attorney~~  
15 *General*, subject to confirmation by the Senate. The  
16 director shall annually appear before the appropriate  
17 policy committees of the Assembly and the Senate to  
18 report on the activities of the ~~division office~~.

19 (c) (1) The consumer advocate with the approval of  
20 the Attorney General shall appoint ~~attorneys~~ *as* assistant  
21 consumer advocates, *including attorneys*, and additional  
22 ~~clerical, —technical, —and —professional~~ *technical,*  
23 *professional, and clerical* staff as may be appropriate, and

1 may contract for additional services as shall be necessary  
 2 for the performance of his or her function. The  
 3 compensation of assistant consumer advocates and  
 4 ~~clerical, technical and professional~~ *technical,*  
 5 *professional, and clerical* staff shall be set ~~by the Attorney~~  
 6 ~~General~~ *at a level consistent with comparable levels*  
 7 *within the commission.* No assistant consumer advocate  
 8 or other staff employee shall, while serving in that  
 9 position, engage in any business, vocation, other  
 10 employment, or have other interests inconsistent with his  
 11 or her official responsibilities.

12 *(2) The Attorney General shall use the current civil*  
 13 *service classifications used by the commission in staffing*  
 14 *the Office of the Consumer Advocate. This shall include*  
 15 *attorneys, managers, supervisors, economists, engineers,*  
 16 *accountants, and clerical staff.*

17 (d) (1) The consumer advocate shall be a person who  
 18 by reason of training, experience, and attainment is  
 19 qualified to represent the interest of consumers.  
 20 Compensation shall be set by the Attorney General.

21 (2) No individual who serves as a consumer advocate  
 22 shall, while serving in that position, engage in any  
 23 business, vocation, other employment, or have other  
 24 interests inconsistent with his or her official  
 25 responsibilities, nor shall he or she seek or accept  
 26 employment nor render beneficial services for  
 27 compensation with any person or corporation subject to  
 28 the authority of the commission during the tenure of the  
 29 appointment and for a period of two years after the  
 30 appointment is served or terminated.

31 (3) Any individual who is appointed to the position of  
 32 consumer advocate shall not seek election nor accept  
 33 appointment to any political office during his or her  
 34 tenure as consumer advocate and for a period of two years  
 35 after the appointment is served or terminated.

36 (e) (1) The ~~division~~ *office* may compel the  
 37 production or disclosure of any information it deems  
 38 necessary to perform its duties from entities regulated by  
 39 the commission provided that any objections to any  
 40 request for information shall be decided by the assigned

1 commissioner or by the president of the commission if  
2 there is no assigned commissioner.

3 (2) In addition to any other authority conferred upon  
4 him or her by this section, the consumer advocate is  
5 authorized, and it shall be his or her duty, in carrying out  
6 his or her responsibilities under this section, to represent  
7 the interests of consumers as a party, or otherwise  
8 participate for the purpose of representing the interests  
9 of consumers, before the commission in any matter  
10 properly before the commission, and before any court or  
11 agency, initiating proceedings if in his or her judgment it  
12 may be necessary, in connection with any matter  
13 involving regulation by the commission or the  
14 corresponding regulatory agency of the United States  
15 whether on appeal or otherwise initiated.

16 (3) The consumer advocate may monitor all cases  
17 before corresponding regulatory agencies of the United  
18 States, including the Federal Communications  
19 Commission and the Federal Energy Regulatory  
20 Commission, which impact upon the interests of  
21 California consumers and may formally participate in  
22 those proceedings which in his or her judgment warrant  
23 that participation.

24 (4) The consumer advocate may exercise discretion in  
25 determining the interests of consumers that will be  
26 advocated in any particular proceeding and in  
27 determining whether or not to participate in or initiate  
28 any particular proceeding and, in so determining, shall  
29 consider the public interest, the resources available and  
30 the substantiality of the effect of the proceeding on the  
31 interest of consumers. The consumer advocate may  
32 refrain from intervening when in the judgment of the  
33 consumer advocate such is not necessary to represent  
34 adequately the interest of consumers.

35 (5) In addition to any other authority conferred upon  
36 him or her by this section, the consumer advocate is  
37 authorized to represent an interest of consumers which  
38 is presented to him or her for his or her consideration  
39 upon petition in writing by a substantial number of  
40 persons who make direct use or are ultimate recipients of



1 a product or service supplied by a person, corporation, or  
2 municipal corporation subject to regulation by the  
3 commission. The consumer advocate shall notify the  
4 principal sponsors of any petition within a reasonable  
5 time after receipt of any petition of the action taken or  
6 intended to be taken by him or her with respect to the  
7 interest of consumers presented in that petition. If the  
8 consumer advocate declines or is unable to represent the  
9 interest, he or she shall notify the sponsors and shall state  
10 his or her reasons therefor.

11 (6) Any action brought by the consumer advocate  
12 before a court or an agency of this state shall be brought  
13 in the name of the consumer advocate. The consumer  
14 advocate may name a consumer or group of consumers in  
15 whose name the action may be brought or may join with  
16 a consumer or group of consumers in bringing the action.

17 (7) At a time as the consumer advocate determines, in  
18 accordance with applicable time limitations, to initiate,  
19 intervene, or otherwise participate in any commission,  
20 agency, or court proceeding, he or she shall issue publicly  
21 a written statement, a copy of which he or she shall file  
22 in the proceeding in addition to any required entry of his  
23 or her appearance, stating concisely the specific interests  
24 of consumers to be protected.

25 (f) There is hereby created the Consumer Advocate  
26 Account in the General Fund. All moneys deposited in  
27 the account shall be utilized exclusively by the ~~division~~  
28 *office* in the performance of its duties. The budget for the  
29 Office of Consumer Advocate shall be annually  
30 submitted. *The commission shall annually determine a*  
31 *fee to be paid by every public utility to produce an*  
32 *amount equal to the amount established in the authorized*  
33 *budget for the Office of the Consumer Advocate for*  
34 *deposit into the Consumer Advocate Account in the*  
35 *General Fund for appropriation by the Legislature in the*  
36 *annual Budget Act.* The Office of Consumer Advocate  
37 shall annually submit a staffing report containing a  
38 comparison of the staffing levels for each year during the  
39 five-year period.

(g) (1) This section shall not in any way limit the right of any consumer to bring a proceeding before either the commission or a court.

(2) This section shall not abrogate the statutory authority or responsibility of the commission to regulate public utilities in the public interest.

(h) The consumer advocate shall annually transmit to the Governor and the Attorney General and to the Legislature, and shall make available to the public, an annual report on the conduct of the Office of Consumer Advocate. The consumer advocate shall make recommendations as may from time to time be necessary or desirable to protect the interest of consumers.

(i) This section shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2002, deletes or extends that date.

SEC. 2. Section 583 of the Public Utilities Code is amended to read:

583. (a) No information furnished to the commission by a public utility, or any business which is a subsidiary or affiliate of a public utility, or a corporation which holds a controlling interest in a public utility, except those matters specifically required to be open to public inspection by this part, shall be open to public inspection or made public except on order of the commission, or by the commission or a commissioner in the course of a hearing or proceeding. Any present or former officer or employee of the commission who divulges ~~any such~~ the information is guilty of a misdemeanor.

(b) The provisions of this section shall also apply to the consumer advocate.

SEC. 3. Section 584 of the Public Utilities Code is amended to read:

584. (a) Every public utility shall furnish ~~such~~ reports to the commission at ~~such the~~ time and in ~~such the~~ form as the commission may require in which the utility shall specifically answer all questions propounded by the commission. The commission may require any public utility to file monthly reports of earnings and expenses,

1 and to file periodical or special reports, or both,  
2 concerning any matter about which the commission is  
3 authorized by any law to inquire or to keep itself  
4 informed, or which it is required to enforce. All reports  
5 shall be under oath when required by the commission.

6 *(b) Reports furnished to the commission pursuant to*  
7 *subdivision (a) shall be submitted by the commission to*  
8 *the consumer advocate.*

9 *SEC. 4. No reimbursement is required by this act*  
10 *pursuant to Section 6 of Article XIII B of the California*  
11 *Constitution because the only costs that may be incurred*  
12 *by a local agency or school district will be incurred*  
13 *because this act creates a new crime or infraction,*  
14 *eliminates a crime or infraction, or changes the penalty*  
15 *for a crime or infraction, within the meaning of Section*  
16 *17556 of the Government Code, or changes the definition*  
17 *of a crime within the meaning of Section 6 of Article*  
18 *XIII B of the California Constitution.*

19 *Notwithstanding Section 17580 of the Government*  
20 *Code, unless otherwise specified, the provisions of this act*  
21 *shall become operative on the same date that the act*  
22 *takes effect pursuant to the California Constitution.*

